

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ERIC RUDOLPH,

Plaintiff,

- against -

ADVANCE LOCAL MEDIA LLC

Defendant.

Docket No. 1:20-cv-1817

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Eric Rudolph (“Rudolph” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Advance Local Media LLC (“Advance Local Media” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of American singer and songwriter Jim Morrison, owned and registered by Rudolph, a New York based professional photographer. Accordingly, Rudolph seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and transacts business in New York and is registered with the New York Department of State Division of Corporations.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Rudolph is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 75 Knollwood Avenue, Huntington, New York 11743.

6. Upon information and belief, Advance Local Media is a limited liability company duly organized and existing under the laws of the State of New York, with a place of business at 950 W. Fingerboard Road, Staten Island, New York 10305. Upon information and belief, Advance Local Media is registered with the New York State Department of Corporations to do business in New York. At all times material hereto, Advance Local Media has owned and operated a website at the URL: www.AL.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Rudolph photographed American singer and songwriter Jim Morrison (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Rudolph is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-158-294.

B. Defendant’s Infringing Activities

10. Advance Local Media ran an article on the Website entitled *Dead musicians who would have been awesome on social media*. See: https://www.al.com/entertainment/2016/10/dead_musicians_we_wish_wouldve.html. A true and correct copy of the article and a screenshot of the Photograph on the Website is attached hereto as Exhibit B.

11. Advance Local Media did not license the Photograph from Plaintiff for its article, nor did Advance Local Media have Plaintiff's permission or consent to publish the Photograph on its Website.

12. Plaintiff first discovered the Photograph on the Website in July 2019.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Advance Local Media infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Advance Local Media is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Advance Local Media have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Advance Local Media be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
April 15, 2020

LIEBOWITZ LAW FIRM, PLLC
By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305

Valley Stream, NY 11580
Tel: (516) 233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Eric Rudolph